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CONSIDERATIONS  
ON THE  
NAVY BILL.

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CONSIDERATION

BILL

FOR THE

CONSIDERATION  
OF THE GOVERNMENT

ON THE



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TO

FOR THE

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*Great Britain - Commons  
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# CONSIDERATIONS

ON THE

# B I L L

FOR THE

# BETTER GOVERNMENT

OF THE

# N A V Y.

*Bill read 1 Feb. 1749*

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By a SEA OFFICER.

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L O N D O N :

Printed for M. COOPER, in Paternoster-Row.  
1749.

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W. L.

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By a SEA OFFICER.

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Printed for M. Cooper, in Paternoster Row.





# CONSIDERATIONS

## ON THE BILL, &c.

**T**HE Multiplicity of Laws relating to the Sea Service, having been found to be attended with many Inconveniencies, it hath been thought expedient to reduce them to one: And a Bill for that Purpose lies now before the House of Commons, entitled, *A Bill for Amending, Explaining, and reducing into one Act of Parliament,*

*Parliament, the Laws relating to the Government of his Majesty's Ships, Vessels, and Forces by Sea.*

This Bill having been some Time since printed, the better to enable all Persons to judge and advise in so important a Matter, Occasion has thence been taken, to represent some Parts of it, as intended to vest an unprecedented and tyrannical Power in the Lords of the Admiralty, and as subjecting all Officers, more particularly those upon Half Pay, to a Degree of Slavery, hitherto unknown to our Constitution. This hath given Umbrage to several Sea Officers, who thereupon petitioned the Lords of the Admiralty to use their utmost Endeavours for the Mitigation of some of its Clauses, requesting more especially that the Thirty-fourth Article might be left out, and the Thirty-third more fully explained.

At the Time this Petition was delivered, the Petitioners were informed by the Board,  
that

that when the Bill came to be considered by the House, many Alterations were intended to be proposed, which it was presumed would obviate the Objections urged in the Petition. Several of these Amendments were then communicated to the Officers present, and in particular a new Draught of the Thirty-fourth Article was delivered to them in Writing, which being very differently expressed from the printed Bill, I shall here insert it verbatim.

#### A R T. 34.

*All Half Pay Officers belonging to his Majesty's Navy, when ordered upon Service by the Lord High Admiral, or Commissioners for Executing the Office of Lord High Admiral for the Time being, shall, in Case of their Disobedience to such Commands,*

*Commands, be liable to be Tried and Punished by a Court Martial, in such Manner as the said Court shall judge meet, according to the Nature and Degree of the Offence.*

As the Amendments declared by the Board on this Occasion, especially this new Draught of the Thirty-fourth Article, appeared to me (for I was then present) to be a sufficient Security against the extraordinary Powers suggested to be contained in the Bill, I hoped that they would have proved satisfactory, and that all farther Contestation would have been at an End. But I soon found to my Surprize, that though the Petitioners seemed to approve the Amendments proposed in the other Parts of the Bill, yet they still requested to have the Thirty-fourth Article totally omitted, notwithstanding the Alteration it had undergone, and continued their Dislike of the Thirty-third. And, upon



upon the whole, they were so little satisfied, that they have since petitioned the House of Commons, for Leave to be heard by Council against the Bill.

These Steps taken by a considerable Body of Officers, have had no small Effect in prejudicing the Minds of many indifferent Persons, and inducing them to believe that the Bill in question (particularly the Thirty-fourth Article as recited above) is intended to establish Powers of a dangerous and un-constitutional Nature. But in order to examine what Foundation there is for these Prepossessions, especially with regard to the Authority granted to the Admiralty over Half Pay Officers by the Thirty-fourth Article, it is necessary that the Origin of granting Half Pay, the Motives for doing it, and the Conditions with which it hath been always attended, should be explained.

The allowing Half Pay to the Sea Officers was first introduced, as I conceive, in  
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the Reign of King *Charles* the Second. It was originally granted only to Flag Officers, and was some Years afterwards extended to the Commanders of First and Second Rate Ships. But in the Reign of the late King *William*, in the Year 1693, it was resolved by his Majesty in Council, that the Sea Pay of the Flag Officers, Commanders, Lieutenants, Masters, and Surgeons of the Navy should be twice as much as it had been ; and that the entire old Pay (which was consequently half the encreased Pay) should in Time of Peace be continued to such of those Officers as were within the Description of that Order of Council : But upon this express Condition, That the Half Pay Flag Officers, Captains, Lieutenants, and Masters, to whom this Allowance was to be made, “ should be ready at all Times “ to obey such Orders as they shall receive “ from the Lord High Admiral, or the “ Commissioners for executing that Office “ for the Time being.”

However,

However, this Order of Council being made during the War, it could not take place immediately : And when the Peace was concluded, it became necessary to reconsider it. Accordingly, I find, that in the Year 1698, the Lords Commissioners of the Admiralty presented to the Lords Justices in Council a Draught of a new Establishment both for Full Pay and Half Pay; which Draught having been (as it should seem) laid before the House of Commons, they addressed the King, that he would be pleased to take into Consideration, and settle the said Establishment. And it was accordingly confirmed by his Majesty in Council the 18th of *April* 1700.

This seems to have been the first Regulation of this kind in which the Parliament interfered, and therefore it appears to be the most authentic Declaration of the Intention of the Public in granting Half Pay and of the Duty incumbent on those who

receive it : since upon this Draught, and the Estimate which attended it, the necessary Sums for supporting it were granted by the Commons.

This Regulation, with regard to Half Pay, begins with observing, “ That it will  
 “ be much for his Majesty’s Service, and  
 “ for the Safety of the Kingdom, to have al-  
 “ ways a competent Number of Sea Offi-  
 “ cers supported on Shore, who may be  
 “ within reach to answer any sudden or  
 “ emergent Occasion ;” and therefore pro-  
 pose, that there be Nine Flag Officers, Fifty  
 Captains, an Hundred Lieutenants, and  
 Thirty Masters, constantly paid in the Man-  
 ner there specified. It farther directs, “ That  
 “ all Officers entitled to Half Pay shall, at  
 “ all Times, be ready to obey such Orders  
 “ as they shall receive from the Board ; to  
 “ which end they are to transmit an Ac-  
 “ count, from Time to Time, to the Secre-  
 “ tary of the Admiralty, of the Places of  
 “ their respective Habitations, that so, when  
 “ his



“ his Majesty’s Service requires their Attendance, they may the more readily be called thereunto.”

By an Order of Council made in the Year 1715, this Establishment of Half Pay of the Year 1700, was extended to all the Captains and Lieutenants which were then unprovided for : But still under the same Injunctions to them, as before, to keep themselves, at all Times, ready to receive the Commands of the Admiralty. The Articles relating thereto being copied, *verbatim*, from those of the Year 1700.

These are the Orders that have been hitherto issued in relation to the Engagements and Duties of Sea Officers upon Half Pay ; and hence it appears, that the principal Inducement for granting of Half Pay, was the Consideration, How necessary it was for the Safety of the Kingdom, to have always a competent Number of experienced Sea Officers supported on Shore, who might be within  
Reach

Reach to answer any sudden or emergent Occasion. It appears too, that the express Condition upon which the Half Pay is granted, is, that those that receive it shall be, at all Times, ready to enter upon Service, when commanded by the Lords of the Admiralty.

If now, these Engagements to which every Half Pay Officer is at present subjected, be well attended to, it cannot with any Face of Reason be asserted, that the Thirty-fourth Article of the intended Bill, as inserted above, grants any additional Powers to the Admiralty, or lays any additional Hardships on the Half Pay Officer; since, from what has been recited, it incontestably appears, that every Officer receiving the Half Pay is bound to enter upon Service, whenever ordered thereto by the Lords of the Admiralty. And though the Penalty for refusing hath not been yet ascertained, yet it is not clear but that even the Common Law would be open against an Officer, who  
should

should have received his Majesty's Pay, on Condition of being ready on any Emergency; and who yet, when that Emergency happened, should refuse to serve. All then that is intended to be done by this Thirty-fourth Article is, not to create a new Species of Offence, but to appoint the Method of Trial for an old one; by which Trial too, the Power of the Lords of the Admiralty is rather abridg'd than extended; since, by referring the Matter to the Judgment of a Court-Martial, it should seem as if the Admiralty gave up their hitherto unquestioned Right of striking the Offender off the List, and leave it to the Opinion of his Peers, whether his Refusal be, or be not, criminal.

Thus much may suffice to shew, that neither will the Admiralty acquire any new Powers, nor the Officer suffer any new Subjection by the intended Thirty-fourth Article. And if now, after obviating the Charge of Innovation, we seriously examine the Expediency of this Article, it is presumed that, in  
this

this Light, it will receive the Approbation of all those who pay a due Regard to the Interest and Safety of these Kingdoms.

For our Fleet being our great Security against every foreign Enemy, it is of the utmost Moment to us, that we should be continually provided with a sufficient Number of able and experienced Sea Officers, since without their Presence and Direction, our Ships and Men will not avail us. Should we therefore neglect our naval Interest, so far as to allow all the Skill and Capacity which has been exerted in the late War, to be dissipated during the Peace, and to be utterly detached from all Views of future Service, the *British* Power might perhaps be destroyed before so fatal an Evil could be remedied. For the Profession of a Sea Officer is so complicated a Business, requires so long an Apprenticeship, and such an early Application, that a Nation who once permits this useful Body of Men to moulder away, cannot retrieve them again, but in a long Course of Years.

But



But should the Situation of Half Pay Officers be agreed to be such, as in Opposition to the Article in question hath been lately contended for; that is, should it be granted, that every Officer receives his Half Pay as a Reward of what he has already done, and not as an Engagement for his future Services, what could be expected from such a Persuasion, but the very Calamity already described? since in a long Peace it is not unreasonable to suppose, that Engagements on Shore, and new Habits of Life, might insensibly steal upon our Sea Officers, and might, without any Imputation on their Spirit or Courage, divert them from the Thoughts of a Profession which they consider'd themselves at Liberty to abandon when they pleased. And this, added to the natural Decrease of their Numbers by Death, might in a few Years reduce us to the hard Necessity of trusting our naval Force to inexperienced and unskillful Hands, when we had vainly flattered ourselves, that the public

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Bounty had secured us a sufficient Number of tried and approved Veterans.

But now, should the Thirty-fourth Article pass into a Law, in the Form recited above, we shall thereby be not only secured of the Service of those who receive the public Pay in Time of Peace, but we shall have them likewise readier, experter, and more present to their Profession, whenever they are called on, than could well be expected without this Regulation. For the explicit Determination contained in this Article, which obliges them to be always ready to enter on Service when commanded by the public Authority, will imprint on their Minds the Probability of their being called for upon some unforeseen Emergency; and they will thereby be convinced of the Expediency of retaining the Skill they have acquired in their Profession, and making it the Subject of their Thoughts, that their Reputation may not suffer, when they are again employed by their Country.

If it should be urged, that many of these Gentlemen may hereafter be so far incapacitated by Age, or by their former Wounds and Fatigues, that it would be Inhumanity to expect their Service; and that yet perhaps, for this very reason, they may be ordered out through the Pique of some powerful Enemy: I answer; That this Objection is much stronger at present than it would be, should the intended Bill pass; since now the Admiralty have an unquestioned Right to order any Half Pay Officer on Service, and to strike him off the List if he disobeys, and perhaps to proceed to farther Extremities: Whereas by the Thirty-fourth Article above recited, all Power of censuring, in case of Disobedience, seems to be devolved upon a Court-Martial, where every Argument of Age, of Sickness, or of domestic Engagement, will doubtless have its full Force; since, amongst all the Sarcasms dispersed amongst the Public, that of the Severity of Court-Martials to their Brother Officers hath as yet been rarely heard of. And many In-

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stances might be recited, within a few Years, where the Judgment of Court-Martials have been, in Point of Lenity, directly opposed to the general Opinion of the Publick,

Upon the whole then it may be affirmed, with great Truth, that this Thirty-fourth Article, although opposed with such Vehemence, does not place the Half Pay Officer in a worse Situation than what he now stands in; that instead of increasing, it rather diminishes the Power of the Lords of the Admiralty, and by securing the Service of the veteran Commanders to the Public, it seems to be extremely necessary for the Honour of the Fleet, and the Safety of the Nation.

After this Discussion of the Thirty-fourth Article, which I have dwelt the longer on, as it has appeared to me to be what some of my Brethren, in their Conversations on this Subject, consider as by far the most exceptionable Part of the Bill: I must now beg leave

leave to add a few Lines in relation to the Thirty-third Article, and then I conceive I shall have discussed the principal Matters which have given such Disgust to my Fellow Officers, since the remaining Articles, in the Form under which they are now intended to be established, are not, I presume, so different from the Laws already in being, as to countenance the Charges of Innovation and Tyranny so freely bestowed upon the Thirty-third and Thirty-fourth Articles.

The Thirty-third Article is in the following Words :

*If any Flag Officer, Captain, or Commander, or Lieutenant belonging to the Fleet, shall be convicted before a Court-Martial of behaving in a Manner unbecoming the Character of an Officer, he shall be dismissed from his Majesty's Service.*

To

To shew the Expediency of this Article, I conceive no more is necessary than to mention the Motives which the Compilers had in view when they inserted it in the Bill. It must be remembered, that in the Course of the late War several Enormities have been committed by Commanders of Ships which were supposed not to be cognisable by Courts-Martial, because they were Crimes not explicitly described in the Articles of War. In particular, there have been Officers brought to Courts Martial for Frauds and for Cruelty; where, tho' the Facts were plainly proved to the Satisfaction of the Judge, yet they did not think themselves authorised by the Laws in being to pronounce any Sentence thereon. Other Instances of a similar Nature might be mentioned, and many more may be imagined; but I presume I have already said enough to shew the Necessity of some new Regulation of this kind, and to obviate the captious and despotic Intentions which have been ascribed to it. I shall therefore now finish these Remarks with observing, that tho' the defend-  
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ing Mankind against the Attempts of arbitrary Power and Tyranny is, of all human Actions, the most beneficent and honourable ; yet the supporting the Interests and extending the Immunities of private Bodies of Men, in opposition to the public Utility and the Safety of the Nation, is an Undertaking of a far different kind : and, whatever Name it may be disguised under, is, in its Nature, much nearer allied to Tyranny than to Patriotism.

*F I N I S.*



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